

STATE PLAN NUMBER NIN OF THE SOCIAL SECURITY ACT

SECTION 101

ELIGIBILITY CONDITIONS AND REMEDIES

For purposes of compliance with Nursing Facilities
 and Management, Describe the criteria as required in 42 CFR 488.408 (1995) and 488.410 (1995). For appropriate
 remedy.

XXX Specified Remedy

Will use the criteria and notice requirements
 specified in the regulation.

Alternative Remedy

(Describe the criteria and demonstrate that the
 alternative remedy is as effective in determining
 non-compliance. Notice requirements are as
 specified in the regulations.)

Temporary management in cases of immediate jeopardy. In accordance with 42 CFR
 §488.408 (1995) and §488.410 (1995), the Commonwealth shall:

- A. Impose temporary management on the nursing facility.
- B. Terminate the nursing facility's provider agreement, or
- C. Impose both of these remedies.

When there are one or more deficiencies that constitute immediate jeopardy to resident health
 or safety. For purposes of this regulation, temporary management shall mean the temporary
 appointment by HCFA or the Commonwealth of a substitute facility manager or administrator
 with authority to hire, terminate, or reassign staff, obligate NF funds, alter NF procedures, and
 manage the NF to correct deficiencies identified in the NF's operation. The individual
 appointed as a temporary manager shall meet the qualifications of 42 CFR §488.415(b) (1995). The
 and be compensated in accordance with the requirements of 42 CFR §488.415(c) (1995). The
 Commonwealth shall notify the facility that a temporary manager is being appointed. In
 situations of immediate jeopardy, the Commonwealth shall also have the authority to impose
 other remedies, as appropriate, in addition to termination of the provider agreement and
 temporary management. In a NF or dually participating facility, if the Commonwealth finds
 that such NF's or facility's non-compliance poses immediate jeopardy to resident health or
 safety, the Commonwealth shall notify HCFA of such finding.

Temporary management in situations of no immediate jeopardy. When there are widespread
 deficiencies that constitute actual harm that is not immediate jeopardy, the Commonwealth
 shall have the authority to impose temporary management, in addition to the remedies of
 denial of payment for new admissions or civil money penalties of \$500-\$3,000 per day.

Approval Date

OCT 30 1996

Effective Date

HCFA 100

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Enforcement of Compliance for Nursing Facilities

§3 Failure to relinquish authority to temporary management.

- A. Termination of provider agreement. If a NF fails to relinquish authority to the temporary manager, the Commonwealth shall terminate the NF's provider agreement within 23 calendar days of the last day of the survey, if the immediate jeopardy is not removed. If the facility fails to relinquish control to the temporary manager, state monitoring may be imposed pending termination of the provider agreement. If the facility relinquishes control to the temporary manager, the Commonwealth must notify the facility that, unless it removes the immediate jeopardy, its provider agreement shall be terminated within 23 calendar days of the last day of the survey. A NF's failure to pay the salary of the temporary manager shall be considered a failure to relinquish authority to temporary management.
- B. Duration of temporary management. Temporary management shall end when any of the conditions specified in 42 CFR §488.454(c) (1995) are met. For purposes of this regulation, substantial compliance shall mean a level of compliance with the requirements of participation such that any identified deficiencies pose no greater risk to resident health or safety than the potential for causing minimal harm.

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